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LETTER DATED 5 AUGUST 1992 FROM THE PERMANENT REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE UNITED NATIONS OFFICE AT GENEVA ADDRESSED TO THE UNDER-SECRETARY-GENERAL FOR HUMAN RIGHTS

Argentina, Australia, Austria, Bangladesh, Belgium*, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia*, Czech and Slovak Federal Republic, Denmark*, Finland*, France, Gambia, Germany, Ghana, Greece*, Iceland*, Ireland*, Italy, Lesotho, Luxembourg*, Madagascar, Netherlands, New Zealand*, Nigeria, Norway*, Pakistan, Panama*, Philippines, Poland*, Portugal, Romania*, Senegal, Slovenia*, Somalia, Spain*, Sweden*, Switzerland*, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

GE.92-13072/0380K (E)

13 August 1992

The situation of human rights in the territory of the former Yugoslavia

The Commission on Human Rights,

Meeting in special session,

Guided by the principles embodied in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Convention on the Elimination of All Forms of Racial Discrimination, and accepted humanitarian rules, including those set out in the Geneva Conventions of 12 August 1949 for the protection of war victims and the Additional Protocols thereto of 1977,

Guided also by the need to implement the principles set out in the aforementioned instruments,

Aware of its responsibility to promote and encourage respect for human rights and fundamental freedoms for all and resolved to remain vigilant with regard to violations of human rights wherever they may occur, and to prevent such violations,

Appalled at the continuing reports of widespread, massive and grave violations of human rights occurring within the territory of the former Yugoslavia and especially in Bosnia and Herzegovina, including reports of summary and arbitrary executions, enforced disappearances, torture and other cruel, inhuman or degrading treatment, arbitrary arrest and detention, hostage-taking, lack of due process and lack of respect for the rule of law, restrictions on freedom of thought, expression and association, deliberate attacks on non-combatants, hospitals, and ambulances, restrictions on access to food and health care, wanton devastation and destruction of property, and serious violations of human rights in places of detention,

Expressing its particular abhorrence at the concept and practice of "ethnic cleansing", in the former Yugoslavia, and especially in Bosnia and Herzegovina, which at a minimum entails deportations and forcible mass removal or expulsion of persons from their homes in flagrant violation of their human rights, and which is aimed at the dislocation or destruction of national, ethnic, racial or religious groups,

Deeply concerned that the conflict in the former Yugoslavia and deliberate violations of human rights have resulted in the creation of more

than two and a half million refugees and internally displaced persons and that conditions conducive to their return in safety and dignity have not been achieved,

Cognizant of the acute danger that the current conflict and its accompanying human rights abuses could spread to additional areas of the former Yugoslavia, and of the need to take action to ensure this does not occur,

Noting the statement by the President of the Security Council on 4 August 1992 concerning reports of the imprisonment and abuse of civilians in camps, prisons, and detention centres within the territory of the former Yugoslavia and especially in Bosnia and Herzegovina, which demands that international organizations, and in particular the International Committee of the Red Cross, be granted immediate, unimpeded and continued access to all such places, and which calls on all parties and organizations to make available to the Council any further information they may possess,

Recalling Security Council resolution 713 (1991) of 25 September 1991 and subsequent Security Council resolutions on the subject,

Recalling that the former Yugoslavia was a party to the International Covenant on Civil and Political Righs, the International Covenant on Economic and Social Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, and the International Convention on the Elimination of All Forms of Racial Discrimination,

Welcoming efforts by the Conference on Security and Cooperation in Europe to investigate reports of serious violations of fundamental human rights in the territory of the former Yugoslavia, and welcoming also the interest of the Organization of the Islamic Conference,

Noting the statements by parties in the former Yugoslavia expressing their willingness to cooperate with international observers,

1. Condemns in the strongest terms all violations of human rights within the territory of the former Yugoslavia, and especially in Bosnia and Herzegovina, and calls upon all parties to cease these violations immediately and to take all necessary steps to ensure full respect for human rights and fundamental freedoms and humanitarian law;

2. Condemns absolutely the concept and practice of "ethnic cleansing";

3. Expresses its alarm at all repressive policies and practices directed against members of particular ethnic groups and also calls upon all parties to ensure the protection of the rights of persons belonging to national or ethnic, religious, and linguistic minorities;

4. Calls upon all parties to release immediately all persons arbitrarily arrested or detained;

5. Demands that the International Committee of the Red Cross be granted immediate, unimpeded and continued access to all camps, prisons and other places of detention within the territory of the former Yugoslavia, and that all parties ensure complete safety and freedom of movement for the International Committee of the Red Cross and otherwise facilitate such access;

6. Also demands that all parties in the former Yugoslavia extend full cooperation and protection to the United Nations High Commissioner for Refugees and her staff, and to other international humanitarian organizations and relief workers, in carrying out their efforts to assist refugees and displaced persons in the former Yugoslavia;

7. Calls upon all parties in the former Yugoslavia to cease immediately the human rights violations that have produced refugees and displaced persons and to promote and ensure conditions conducive to their return to their homes in safety and dignity;

8. Affirms the absolute necessity of ensuring access for humanitarian assistance to those in need;

9. Reminds all parties that they are bound to comply with their obligations under international humanitarian law and in particular the Third Geneva Convention relating to the Treatment of Prisoners of War and Fourth Geneva Convention relating to the Protection of Civilian Persons in Time of War, of 12 August 1949 and the Additional Protocols thereto, and that persons who commit or order the commission of grave breaches of the Geneva Conventions or their Additional Protocols are individually responsible in respect of such breaches;

10. Calls on all parties in the former Yugoslavia to fulfil their obligations under the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic and Social Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the

Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment and the International Covenant on the Elimination of All Forms of Racial Discrimination;

11. Affirms that States are to be held accountable for violations of human rights which their agents commit upon the territory of another State;

12. Requests its Chairman to appoint a special rapporteur to investigate first-hand the human rights situation in the territory of the former Yugoslavia, in particular within Bosnia and Herzegovina, and to receive relevant, credible information on the human rights situation there from Governments, individuals, intergovernmental and non-governmental organizations, on a continuing basis, and to avail himself or herself of the assistance of existing mechanisms of the Commission on Human Rights;

13. Requests the existing mechanisms of the Commission on Human Rights, in particular the Special Rapporteur on torture, the Special Rapporteur on summary or arbitrary executions, the representative of the Secretary-General on internally displaced persons and the Working Group on Arbitrary Detention, to give urgent attention to the situation in the former Yugoslavia and to provide, on a continuing basis, their full cooperation, assistance and findings to the Special Rapporteur, and to accompany the Special Rapporteur in visiting the former Yugoslavia if he or she should so request;

14. Requests the Special Rapporteur to visit areas of interest in the former Yugoslavia, and particularly Bosnia and Herzegovina, forthwith and to report on an urgent basis to the members of the Commission on Human Rights, providing a preliminary report no later than 28 August 1992 on the situation of human rights in the former Yugoslavia, including his or her recommendations for bringing violations to an end and preventing future violations, and requests the Secretary-General to make the report of the Special Rapporteur available also to the Security Council;

15. Also requests the Special Rapporteur to report his or her findings and recommendations to the members of the Commission on Human Rights periodically thereafter until its next regular session, and to report to the General Assembly at its forty-seventh session, as well as to the Commission on Human Rights at its next regular session, under agenda item 12, and requests the Secretary-General to make the reports of the Special Rapporteur available also to the Security Council;

16. Further requests the Special Rapporteur to gather and compile systematically information on possible violations of human rights in the territory of the former Yugoslavia, including those which may constitute war crimes, and to make this information available to the Secretary-General, and notes that such information could be of possible future use in prosecuting violators of international humanitarian law;

17. Requests the Secretary-General to provide all necessary assistance to the Special Rapporteur to fulfil his or her mandate;

18. Requests all United Nations bodies and the specialized agencies, and invites Governments and informed intergovernmental and non-governmental organizations to provide the Special Rapporteur, through the Centre for Human Rights, on a continuing basis, with all relevant and accurate information in their possession on the situation of human rights in the former Yugoslavia;

19. Demands that all parties in the territory of the former Yugoslavia cooperate fully with the Special Rapporteur in the implementation of the present resolution;

20. Requests the Special Rapporteur to take into account and seek to complement the efforts being undertaken by the Conference on Security and Cooperation in Europe with respect to the crisis in the former Yugoslavia;

21. Decides to remain seized of the issues.